

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL SILLERS,	§
	§
Defendant Below-	§ No. 353, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0404022648
Plaintiff Below-	§
Appellee.	§

Submitted: November 28, 2006

Decided: January 25, 2007

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 25th day of January 2007, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) On August 18, 2004, the defendant-appellant, Daniel Sillers (Sillers), pled guilty to one count of driving under the influence of alcohol as a fourth offense. In May 2006, Sillers was charged with violating four conditions of his probation. At a contested VOP hearing, Sillers admitted the first two alleged violations of the conditions of his probation but denied the other two alleged violations. The Superior Court found Sillers in violation of his probation and sentenced him to two years and four months at

Level V imprisonment, to be suspended upon the successful completion of of the Key Program for one year at Level IV Crest and six months at Level III probation.¹ This is Sillers's appeal from that sentence.

(2) Sillers' counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Sillers' counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Sillers' attorney informed him of the provisions of Rule 26(c) and provided Sillers with a copy of the motion to withdraw and the accompanying brief. Sillers also was informed of his right to supplement his attorney's presentation. Sillers has not raised any issues for this Court's consideration. The State has responded to the position taken by Sillers' counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and

¹ In August 2006, this sentence was modified and Sillers was discharged as unimproved.

determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

(4) This Court has reviewed the record carefully and has concluded that Sillers' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Sillers' counsel has made a conscientious effort to examine the record and the law and has properly determined that Sillers could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

² *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).